



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of:

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOP/170595

PRELIMINARY RECITALS

Pursuant to a petition filed November 24, 2015, under Wis. Admin. Code § HA 3.03, to review a decision by the Lafayette County Department of Human Services ["County"] in regard to FoodShare benefits ["FS"], a Hearing was held via telephone from Madison, Wisconsin on February 23, 2016. At petitioner's request Hearings scheduled for January 20, 2016 and December 29, 2016 were rescheduled.

The issue for determination is whether it was correct to establish the following Claim against petitioner for an overpayment of FS: Claim Number [REDACTED]; August 27, 2015 to November 30, 2015; \$1,128.00.

There appeared at that time via telephone the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

BY: [REDACTED], ESS

Lafayette County Department of Human Services
627 Main Street
Darlington, WI 53530

ADMINISTRATIVE LAW JUDGE:

Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Lafayette County, Wisconsin.
2. The County established the following Claim against petitioner for an overpayment of FS: Claim Number [REDACTED]; August 27, 2015 to November 30, 2015; \$1,128.00 (this amount was continued FS benefits granted to petitioner at her request pending the *Decision* in DHA Case No. FOO/169529 in which the agency action was upheld -- see *Findings of Fact* #4, below).
3. On October 20, 2015 petitioner requested a Hearing concerning the November 1, 2015 discontinuance of her FS; petitioner's FS was discontinued because the County determined that her ex-husband lived with her, that he had income, and that this was not reported; she requested continued FS benefits pending that Hearing and that request was granted; her Hearing request was assigned appeal number FOO/169529.
4. A Hearing in FOO/169529 was held on November 12, 2015 and a *Decision* dated November 16, 2015 was issued dismissing petitioner's petition; that *Decision* concluded that the County "correctly placed petitioner's ex-husband back in her FS household . . . ". See, DHA Case No. FOO/169529 (Wis. Div. Hearings & Appeals November 16, 2015; rehearing denied November 23, 2015) (DHS).

DISCUSSION

The law provides that if an agency action is upheld by a Hearing *Decision* then a Claim against the household must be established for all overpayments resulting from the continuing benefits that were received. 7 C.F.R. § 273.15(k)(1) (2015); See also, *FoodShare Wisconsin Handbook* ["FWH"] 7.3.1.9.2. Petitioner received continuing FS benefits pending the *Decision* in FOO/169529. The agency action in FOO/169529 was upheld. Therefore, the County correctly established an overpayment in this matter.¹

CONCLUSIONS OF LAW

For the reasons discussed above, it was correct to establish the following Claim against petitioner for an overpayment of FS: Claim Number [REDACTED]; August 27, 2015 to November 30, 2015; \$1,128.00.

NOW, THEREFORE, it is

ORDERED

that the petition for review herein be and the same is hereby DISMISSED.

¹ It is noted that petitioner still has not provided any credible convincing evidence that her ex-husband did not live with her during the time period in question. She did provide a fill-in-the-blank *PetsSmart Relocation Information Form* dated November 16, 2016 signed by her ex-husband stating that he rented at a location in Iowa. This is neither credible nor convincing. Exhibit #1. First, it is not from an independent 3rd party source (it appears to have been filled-in by hand by petitioner's ex-husband). Second, the location where petitioner's ex-husband claimed to be renting was never a rental property. Exhibit #2.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 10th day of March, 2016

\sSean P. Maloney
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on March 10, 2016.

Lafayette County Department of Human Services
Public Assistance Collection Unit
Division of Health Care Access and Accountability